

1 JOHN W. SPIEGEL (SBN: 78935)
John.Spiegel@mto.com
2 MUNGER, TOLLES & OLSON LLP
355 South Grand Avenue, Thirty-Fifth Floor
3 Los Angeles, CA 90071-1560
Telephone: (213) 683-9100
4 Facsimile: (213) 687-3702

5 JONATHAN H. BLAVIN (SBN: 230269)
Jonathan.Blavin@mto.com
6 JESSE MAX CREED (SBN: 272595)
Jesse.Creed@mto.com
7 MUNGER, TOLLES & OLSON LLP
560 Mission Street, 27th Floor
8 San Francisco, CA 94105
Telephone: (415) 512-4000
9 Facsimile: (415) 512-4077

10 Attorneys for Plaintiff
11 EMECO INDUSTRIES, INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 EMECO INDUSTRIES, INC.
16 Plaintiff,

17 v.

18 RESTORATION HARDWARE, INC., GARY
19 FRIEDMAN, and DOES 1-10.
20 Defendants.

CASE NO. CV 12-05072 MMC
**DECLARATION OF MAGNUS
BREITLING IN SUPPORT OF
PLAINTIFF'S MOTION FOR
PRELIMINARY INJUNCTION**

1 I, Magnus Breitling, declare as follows:

2 1. I am the Director of Product Management at Emeco Industries, Inc. (“Emeco”), a
3 position that I have held since February 2008. I base the contents of this declaration on my own
4 personal knowledge, and if called to testify as a witness in this action, I could and would testify
5 competently to what I state herein.

6 2. I have no direct knowledge of the origins of the Emeco Navy Chair®.

7 3. In a video for the HGTV television show Design DNA, I said that the founder of
8 Emeco “basically took a generic wooden chair, took the design over, and made it in aluminum.
9 And a special hardening procedure, thermal hardening, makes the chair super light and at the
10 same time six times stronger than steel.”

11 4. I understand that this statement has been interpreted by Defendants in this matter
12 to mean that the design of the Navy Chair® is simply a replica of a standard wooden chair design.


13 5. That is not an accurate representation of what I meant by this statement. What I
14 meant to convey was my belief that the design of the chair took inspiration from pre-existing,
15 farm-style wooden chairs.

16 6. In making that statement, I had no historical knowledge of any specific wooden
17 chair. When I said “generic wooden chair,” I was simply referring to a farm-style wooden chair
18 with four legs, a seat, and back support. Pictured below are wooden chairs that resemble the type
19 of wooden chair of which I spoke:



25 7. I do not believe and did not say in the Design DNA video that the Navy Chair®
26 design itself was generic.
27
28

I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.


Magnus Breittling